STATE OF CONNECTICUT

JUDICIARY COMMITTEE

WRITTEN TESTIMONY OF RICKY A. MORNEAU H.J. No. 75 MARCH 21, 2011

Resolution Confirming The Decision Of The Claims Commissioner To

Dismiss The Claim Against The State Of Rick Morneau

The Argument before the Judiciary Committee and the Legislature is plainly:

1.) The decision of the Claims Commissioner must be overruled. No legal basis presented by the State of Connecticut would prevail over federal legislation pursuant to the Supremacy Clause of the Sixth Amendment.
2.) The Claimant should have been afforded by the State, protections of due process and equal protection under the Fourteenth Amendment.
3.) The Claimant placed within the record sufficient evidence and statements to establish the State of Connecticut, Attorney General's Office failed to abide by a Federal Court Order issued for 307 CV-00819, prejudicial to the rights of the Claimant.
4.) That Title 18 Sec. 1509. Obstruction of court orders: states "**Whoever**, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this section **shall be denied on the ground that such conduct is a crime**". Whoever would include the Attorney General's Office allowing no such civil relief under Title 18 Sec. 1509
5.) Within the record,The State of Connecticut State Marshals Commission was found in violation of Connecticut General Statute 1-210 (a) and 1-212 (a), against the Claimant who sought public records pertaining to State Marshals.
6.) Service upon the Defendant's included illegal fees by State Marshal, to discourage filing of federal action against other Marshal's, State Marshal Commission, State of Connecticut.
7.) The State used "state actors" repeatedly to misrepresent those state actors legal duties, to be afforded the Claimant
8.) The legal argument contained in the Attorney General's Motion to Dismiss, filed March 30, 2010, before the Claims Commission, states within Part 3 (b) pg. 5, "Claims for injury to person or damage to property shall be deemed to accrue on the date when the damage or injury is sustained or discovered".

9.) The Claimant filed the claim within one year upon **discovery** of the laws pertaining to the illegal actions of the Attorney General's Office, the State Marshals Commission, and Marshal Albenie Gagnon's service of the federal action, and the State's Attorney refusal to prosecute.

The Claimant's November 27, 2009, filing with the Claims Commissioner "The Exhibits provided and additional documentation, are the basis for the request for legal relief for failure to provide equal protection from actions under "color of law" for the Claimant". The Claimant properly claimed April 30, 2010, Objection to the State of Connecticut Motion to Dismiss:

(a.) pg. 3, (1): The Claimant asserts that the Motion to Dismiss is bias or prejudiced by the argument itself, that the Assistant Attorney General, attempts to immunize the violation of U.S.C.S. Title 18 1509 by Attorney Miller. (A claimed violation in Count 4, (5,), (by the Claimant). The Claimant claimed violations in Count 7, (1-5) of which the Claimant is a member of that class of similarly situated.

(b.) Pg. 4, (3): The Motion to Dismiss by representations of Attorney Miller would conflict with established Connecticut Practice Book Rule 3.3 (c) and 3.7 of Rules of Professional Conduct.

(c.) Pg. 7, (b.): The State failed to abide by Pre Trial Orders issued on May 23, 2007 in violation of U.S.C.S. Title 18,1509 which orders stated in part (c) No motion to dismiss will be entertained unless and until a pre-motion conference has been held with this court as described in subsection (f). Subsection (f) before any party files a motion to dismiss, or for a summary judgment or partial summary judgment, that party shall request, by Motion, a pre-motion conference. The State should produce that motion or transcripts of conference for the Claims Commissioner.

(d.) Pg. 8, (f): A criminal complaint for prosecution was presented by Rocky Hill Police for Marshal Albenie Gagnon's illegal fees, false statements on 16 return of service, and the mailing of the collection of an unlawful debt. On April 9, 2009 a Senior State Attorney Kathleen McNamara refused to prosecute when provided sufficient documentation of violations of the state's criminal code.

(e.) Pg. 8: The complainant was denied due process and equal protection by each of these acts which occurred within the statute of limitations for acts under federal color of law legislation, which has controlling effect in the matter before the Claims Commissioner.

(f.) Pages 8-9: The State of Connecticut's one year defense of a claim being untimely would not have controlling effect in law over the established statute of limitations under federal law. 6th Amendment "The Constitution and laws of the United States, shall be the supreme laws of the land, and anything in the

conditions or laws of any State to the contrary notwithstanding." This means of course that any federal law, even a regulation, trumps any conflicting state law.

(g.) Pages 9-10: As *Harlow v. Fitzgerald* (1984) 457 US 800,73 L Ed. 2d, 139 identifies the Supreme Courts standards of official conduct in the performance of judicial functions beyond the scope of immunity for officials in their official capacity, the Claimant asserts the actions of State of Connecticut, by its State Marshals, Marshals Commission, States Attorney, and the Attorney General have failed to meet the plain error standard and violated the Claimants right to due process and equal protection afforded under Article 14 U. S. Constitution as has been claimed. A plaintiff who seeks damages for a violation of constitutional rights may overcome a defendant's official qualified immunity only by showing these rights were clearly established at the time of the conduct at issue the Supreme Court held in a 42 U.S.C.S. 1983 case, *Davis v. Scherer* (1984) 468 US 183, 82 L Ed. 2d 139, 104 S Ct. Did the Claimant have rights to administrative, civil, or criminal prosecution based on the documents provided officials, and did they exist given the statues of the State of Connecticut or United States pertaining to repeated violations by "state actors" to provide due process or equal protection in their official capacity on behalf of the Claimant?

(h.) Pg. 11: In Harlow, the Court continued, "if the law was clearly established, then the immunity defense ordinarily should fail, in since a reasonably competent official should know the law governing the officials conduct". The Supreme Court in *Malley v. Briggs* (1986) 475 US 335, 89 L Ed. 2d. 271,106 S Ct. 1092 action for damages involving a 42 U.S.C.S. 1983 claim observed **"as qualified immunity defense has evolved it provides ample protection to all but the plainly incompetent or those who knowingly violate the law."** Government officials, as a class, cannot be totally exempt by virtue of some absolute immunity, from liability under terms of 42 U.S.C.S. 1983 since statute includes within its scope misuse of power possessed by.

(i.) Pages 11-12: **Conduct of persons acting under color of state law which is wrongful under 42 U.S.C.S 1983 cannot be immunized by state law, and construction of federal statute which permits immunity defense to have controlling effect would transmute a basic guarantee into an illusory promise, claims of immunity under 42 U.S.C.S. 1983 must not be confused with defenses of good faith. (Emphasis Added)** ***Hampton v Chicago*** **(1973 CA 111) 484 F2d, 602.**

(j.) Pg. 12: The Supreme Court has concluded that **absolute immunity is "strong medicine" and should not apply to conduct of those who knowingly violate the law.** Could the Attorney General's office which has filed countless actions defend, not filing suit on behalf of 30,000 state citizens, against State Marshals

for illegal fees under (Connecticut Unfair Trade Practices Act statutes) as a right not clearly established? Could the States Attorney refuse to prosecute criminally for false statements attested by Marshal Gagnon for illegal billing or lis pendens in violation of fee's, or perjury for whom actually performed the filing or delivered the service by State Marshals under statutes governing larceny or false statements? Why would the denial of dismissed complaints not be released in violation of F.O.I laws for which official received training when commission was releasing documents of complaints that went to hearing, other than the specific intent by Attorney Collins and the State Marshals Commission to understand, the dismissed complaints contained actions by Marshals in violation of statutes.

The Claimant filed a motion APRIL 27, 2010 for a Request for Pre-Hearing Conference for Disqualification, which stated: Under Sec. 4-157-6 the Claimant requests a conference for the following reasons set forth.

(1.) A question of law exists with the filing of the Attorney General's office in claim NO; 212991
(2.) A lawyer under Connecticut Practice Book Rule 3.7 (a) shall not act as advocate at a trial in which lawyer is likely to be a necessary witness.
(3.) The Claimant objects to the representation of the State of Connecticut by Assistant Attorney General Philip Miller in the matter before the Claims Commissioner.
(4.) The tribunal has proper objection when the trier of fact may be confused or misled by a lawyer serving as both advocate and witness. The opposing party has proper objection where the combination of roles may prejudice that party's rights in the litigation.
(5.) A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate- witness should be taken as proof or as an analysis of the proof.

(6.) The rules under 3.7, prohibits a lawyer from simultaneously serving as advocate and necessary witness. Combining the roles of advocate and witness can prejudice the tribunal and the opposing party.

(7.) It is relevant to foresee that Attorney Miller would probably be a witness.
(8.) Under Connecticut Practice Book rule 1.9 a conflict could exist if the Claimant was to call Attorney Miller to give testimony.

Pertaining to the Claimant's claim, the Judiciary Committee and the State Legislature are bound by the provisions of U.S.C. Title 18 1509, requiring, no injunctive or other civil relief against conduct made criminal by a U.S.C. Title 18 1509, violation or other violations shall be denied on the ground that such conduct is a crime. The argument put forth by the State of Connecticut was more self-serving, and not legally sufficient as the fundamental requirement is, the State violates no federal legislation in its operations or representations. The rights of the Claimant are not subjugated by the State's desire to avoid liability, when provided sufficient documentation the Claimant was repeatedly subjected to acts under color of law. Legally the emperor (State of Connecticut) has no clothes. If the Judiciary Committee, or the Legislature, denies the relief sought from the Claims Commissioner ruling, the Claimant seeks:

(1. The Attorney General file civil suit against each State Marshal that billed for illegal fees.
(2. The State's Attorney, file criminal charges against each State Marshal who requested and received illegal fees.

These actions would be required, so as not to further deny, the Claimant equal protection under law, for relief from acts under color of law. This is required under the due process and equal protection clause of the 14th Amendment.

There are 27 Exhibits filed within the State of Connecticut Claims Commissioners FILE NO. 21991. Judiciary and Legislative review of Exhibit 26: should be legally sufficient to establish the 13 claimed violations of law. Exhibit 8: State Marshals Commission found in violation of Freedom of Information laws. Exhibit 9: Federal Court Orders violated by Attorney General's Office. Exhibit 10: State's Attorney refusal to file a criminal complaint. The Connecticut Practice Book Rules should be noted. Exhibit 27 contains excerpts of prior legislative discussions.

For every illegal fee, there was a victim of those acts. The Claimant requests permission from the State of Connecticut Judiciary Committee and the State Legislature to sue the State of Connecticut for compensatory damages, and the ruling of the Claims Commissioner, FILE NO. 21991 upon legislative review, is found to be vacated.

BY: Rick Morneau

Rick Morneau

EXHIBIT 26.

STATE AND FEDERAL LAWS WERE NOT COMPLIED WITH REPEATEDLY:

Connecticut General Statue § 52-261 FEES

Connecticut General Statue § 53a-157b FALSE WRITTEN STATEMENT ON A FORM

Connecticut General Statute §53a-139 (a) (2) FILING FALSE PUBLIC RECORD

Connecticut General Statute § 53a-119 (5)(h) LARCENY

Connecticut General Statute § 53a- 122 (1)LARCENY

Connecticut General Statute § 53-395(c) COLLECTION OF UNLAWFUL DEBT

Connecticut General Statute § 6-38d PENALTY FOR ILLEGAL FEES

Connecticut General Statute §52-325 LIS-PENDENS LAW

Connecticut General Statue § 42 110 G (a-q) CONNECTICUT UNFAIR TRADE PRACTICES

U.S.C. Title 18 U.S.C. § 1951(b)(2) (1982) HOBBS ACT

U.S.C. Title 18,§ 1962 RICO ACT

U.S.C. Title 18 § 1341, MAIL FRAUD ACT

U.S.C. Title 42, §1983 ACTS UNDER COLOR OF LAW

Blacks: Law Dictionary: defines, **EXTORTION: The offense committed by a public official who illegally obtains property under the color of office; esp., an official's collection of an unlawful fee.**"The dividing line between bribery and extortion is shadowy, If one other than the officer corruptly takes the initiative and offers what he knows is not an authorized fee, it is bribery and not extortion. **On the other hand, if the officer corruptly makes an unlawful demand which is paid by one who does not realize it is not a fee authorized for the service rendered, it is extortion** and not bribery.

Blacks Law Dictionary:Gross negligence: A conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequence to another party, who may typically recover exemplary damages. It has been described as a failure to exercise even that care which a careless person would use. The ultimate test of the existence of the duty to use care, for purposes of a negligence action, is found in the foreseeability that harm may result if it is not exercised. ***Segurov.***

Cummiskey*(2004) 844 A.2d 244, 82 Conn. App. 186.* Aggravated negligence such as willful, wanton, or reckless conduct must be more than any mere mistake resulting from inexperience, excitement, or confusion, and more than mere thoughtlessness or inadvertence, or simple inattention.***Frillici v. Town of Westport*** *(2003) 823 A.2d 1172, 264 Conn. 266****Gargano v. Heyman***, 203 Conn. 616, 525 A.2d 1343,1347 (1987).

In Connecticut, an officers return is *prima facie* evidence of the facts stated therein. ***Jenkins v. Bishop Apartments, Inc.*** 144 Conn. 389,390 (1957);

The service of process is a sovereign governmental function subject to control and oversight by the Connecticut General Assembly. ***Kelly v. Kelly,*** 83 Conn. 274 (1910).

Fry v. Taylor 106 Conn. 389

Third Judicial District New Haven

June 1927 ***Wheeler, C. J.***, Maltbie, Haines, Hinman, and Banks, Js

There can be no difference of opinion as to the rule of law. A sheriff is liable for all damage caused by reason of neglect or wrongdoing. *Eviction of property*

Connecticut General Statue 42-G-a-q.

Sec. 42-110b. Unfair trade practices prohibited. Legislative intent.(a) **No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.** (b) It is the intent of the legislature that in construing subsection (a) of this section, the commissioner and the courts of this state shall be guided by interpretations given by the Federal Trade Commission and the federal courts to Section 5(a)(1) of the Federal Trade Commission Act (15 USC 45(a)(1)), as from time to time amended.

.A deceptive trade practice is an activity in which an individual or business engages, that is calculated to mislead or lure the public into purchasing a product or service.

Must allege properly the commission of the alleged wrongful acts "with such frequency as to indicate a general business practice". Id. Connecticut unfair trade practices act (CUTPA) Secs. 42-110a-42-110q cited. 29 CA 157. CUTPA cited. Id., 865.

Connecticut law provides only a four year statute of limitations.Conn.Gen. Stat. § 42a-2-725(1). "Connecticut law has well developed criteria that determinewhether a statute of limitation is procedural or substantive for choice of law purposes."***Baxter v. Sturm, Roger & Co.,*** 230 Conn. 335, 339 (1994). A statute of limitations orstatute of repose is considered substantive for the purposes of choice of law only whenthe limitation period "applies to a new right created by statute." Id. at 340."[I]n caseswhere the statutory limitation in the jurisdiction of the cause of action's origin prescribesa longer period than does that of the forum, the law is well settled that, if the limitation isso interwoven with the statute creating the cause of action as to become one of thecongeries of elements necessary to establish the right, that limitation goes with thecause of action." ***Thomas Iron Co.,*** 131 Conn. at 669.

A deceptive trade practice is an activity in which an individual or business engages, that is calculated to mislead or lure the public into purchasing a product or service.

What specific acts or practices are prohibited by these statutes and decisions?Specifically, CUTPA prohibits "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." *Conn. Gen. Stat.* 42-110b(a). In determining whether an act or practice is unfair, the Supreme Court of Connecticut has adopted the "cigarette rule" of the Federal Trade Commission. The three factors of the cigarette rule are as follows: (1) whether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise; (2) whether it is immoral, unethical, oppressive, or unscrupulous; and (3) whether it causes substantial injury to consumers, competitors, or other businessmen. ***Web Press Serv. Corp. v.New London Motors, Inc.,***203 Conn. 342, 355, 525 A.2d 57, 64 (1987); ***Conaway v. Prestia,*** 191 Conn. 484, 492-93, 464 A.2d 847, 852 (1983). The third element of the "cigarette rule" is, itself, subject to a three-part test: (1) the injury must be substantial; (2) the injury must not be outweighed by any countervailing benefits to consumers or competition that the practice produces; and (3) it must be an injury that consumers themselves could not reasonably have avoided.***Williams Ford, Inc. v. Hartford Courant Co.,***232 Conn. 559, 592, 657 A.2d 212, 228 (1995).

All three elements of the "cigarette rule" do not have to be met to establish a violation of CUTPA. "A practice may be unfair because of the degree to which it meets one of the criteria or because to a lesser extent it meets all three." ***Willow Springs Condominium Ass'n, Inc. v. Seventh BRT, Dev. Corp.,***245 Conn. 1, 43, 717 A.2d 77 (1998); ***Williams Ford,*** 232 Conn. 559, 657 A.2d 212; ***Cheshire Mortgage Serv., Inc. v. Montes,***223 Conn. 80, 106-12, 612 A.2d 1130

Who has standing to bring actions under these statutes and decisions, and who does not? E.g., consumers, businesses, competitors, local prosecutors, state attorneys general, etc.

Any "person" who suffers an "ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by [CUTPA] may bring an action to recover actual damages." **Conn. Gen. Stat. § 42-110g(a).** "Person" is defined as "a natural person, corporation, limited liability company, trust, partnership, incorporated or unincorporated association, and any other legal entity." **Conn. Gen. Stat.§ 42-110a(3).**

Connecticut General Statute 42-110-G relates damages relief, cites punitive damages under CUTPA, if the evidence reveals a reckless indifference to the rights of others, or an intentional and wanton violation of these rights. ***Fabri v. United Technologies Intern Inc,*** C.A. 2 (Conn) 2004, 387 F 3.d 109 Trade Regulation Burden of Proof under 42-110-G, Statute of limitations, allows tolling of time under 42-110-G-11. Consideration for determining unfairness or deception**C.G.S.A. 42-110-B.**The **Connecticut Unfair Trade Practices Act (CUTPA)** provides that "[n]o person shall engage in unfair methods of competition and unfair or deceptive acts of practices in the conduct of any trade or commerce." **Conn. Gen. Stat. §42-110b.** That statute defines the terms trade and commerce as "the advertising, the sale or rent or lease, the offering for sale or rent or lease, or the distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value in this state." Conn. Gen. Stat. §42-110a (emphasis added).

Connecticut law recognizes a claim for negligent misrepresentation where "the declarant has the means of knowing, ought to know, or has the duty of knowing the truth" ***Williams Ford Inc. v. Hartford Courant Co.***, 232 Conn. 559, 575 (1995). plaintiffs claim for bad faith is simply an alternate pleading of its breach of contract claim, which is claimed may entitle it to further remedies.

The essential elements of an action in fraud are that a false representation was made as a statement of fact; that it was made to induce the other party to act on it; and that he did so act to his injury. ***Helming v. Kashak,*** 122 Conn. 641,642, 191 A. 525, ***Macri v. Torello,*** 105 Conn. 631,633, 136 A. 479.

Marshals had the means of knowing, ought to know, or a duty of knowledge of the truth. **U.S.C.S. Title 18, 1346, n8** violation is obtaining money or property by means of false or fraudulent pretense by failing to bill for "honest service".

Connecticut Law of Torts Sec. 135 Six basic elements of fraud

1. There must be a false representation
2. The representation must be of an existing fact
3. The representation must be fraudulent
4. The representation must be made under circumstances which entitle the Plaintiff to rely thereon
5. The plaintiff is induced to rely upon the representation
6. The Plaintiff is damaged as a result of his reliance

If a statute is clear and its language is unambiguous, there is no room for construction. ***Cilley v. Lampshire*** 206 Conn. 69, 535 A2d.1305 (1998). (Emphasis added) Where particular method of service of process is pointed out by statue, that method must be followed under C.G.S.A. ***Stillwell v. Gaffney*** 259 A. 2d 655, 5 Conn. Cir. Ct. 594. It is the wise policy of the law that its process shall be directed to known public officers, and the law sanctions a departure from this policy only in cases of supposed necessity" ***Eno v Frisbie,***5 Day 122,127 Conn (1811) ***Kelly v Kelly*** , 83 Conn. 274,276 (1910).

West's Connecticut Law Digest Conn. EVIDENCE 1926 :Public officers are presumed, until the contrary appears, to know the law and to act regularly and lawfully in the performance of their duties.***Daly v. Fisk,*** 134 A. 169, 104 Conn. 579. In absence of proof to contrary, person is presumed to know and understand contents of simple instruments which he signs. ***Fasano v. Meliso,*** 152 A. 512, 146 Conn. 496

Fraudulent intent is shown if a representation is made with reckless indifference to its truth or falsity.***Cusino,***694 F.2d at 187. In addition, "[f]raudulent intent may be inferred from the modus operandi of the scheme." ***United States v. Reid,*** 533 F.2d 1255, 1264 n. 34 (D.C. Cir. 1976) ("[T]he purpose of the scheme 'must be to injure, which doubtless may be inferred when the scheme has such effect as a necessary result of carrying it out.") (quoting ***United States v. Regent Office Supply Co.,*** 421 F.2d 1174, 1180-81 (2d Cir. 1970) (quoting ***Horman v. United States,*** 116 F. 350, 352 (6th Cir.), *cert. denied*, 187 U.S. 641 (1902))). "Of course proof that someone was actually victimized by the fraud is good evidence of the schemer's intent." *Id.* (quoting ***Regent Office Supply Co.,*** 421 F.2d at 1180-81).

May 5, 1987 **Peters, C.J.**, Healey, Shea, Dannehy, Callahan, Js.

If a representation was not made innocently, the common law allowed a plaintiff to sue for fraud, deceit, or "ordinary" misrepresentation. Under our common law, a person claiming to be a victim of fraud or misrepresentation had to prove " that a false representation was made as a statement of fact; that it was untrue by the party making it; that it was made to induce the other party to act on it; and that he did so to his injury." ***Pavia v. Vanech Heights Construction Co.*** 159 Conn. 512,517,271 A.2d 69(70) .

Cilley v. Lamphere ***206 Conn. 6***

January 19 1988,*Peters, C. J.,* Healey, Shea, Callahan, Santaniello, Js.

When language used In a statute is clear and unambiguous, its meaning is not subject to modification or construction. ***Seals v. Hickey,*** 186 Conn. 377,346,441 A. 2d 604 (1982) *Employment transfer case*

Stillwell v. Gaffney ***259 A. 2d 655, Conn. Cir. Ct. 594***

March 7, 1969 ***Federal Appellate Court, Stapleton, J.***

Where a particular method of serving process is pointed out by statute, that method must be followed.**C.G.S.A. 52-63.***Gaffney attempted to leave the service of process with Commissioner of Motor Vehicles for a motor vehicle operator not found at his address.*

U.S.C. Title 18 U.S.C. § 1951(b) (2) (1982)HOBBS ACT:

The purposes of the Hobbs Act are best served by defining inducement as a communicative act by an official that is intended to encourage consensual transfer of property to the official. This definition allows inducement to be inferred from a pattern of receiving payments. Inducement should not, however, carry the requirement that the public official initiate the transaction.

Several other federal laws are used in prosecutions of state and local officials: (1) TheTravel Act, 18 U.S.C. § 1952 (1982), which proscribes interstate travel for the purposes ofextortion or bribery; (2) The Racketeering Influenced and Corrupt Organization Act(RICO), 18 U.S.C. §1961-68 (1982), which makes illegal one's engagement in an enterprise that affects interstate commerce through a pattern of racketeering activity; (3) The MailFraud Statute, 18 U.S.C. § 1341 (1982), which proscribes the use of the mails in schemes to obtain money fraudulently;

The word "payments" is used in this comment to describe any property that may be at issue under the Act, including both cash payments and in-kind benefits. *See Hobbs ACT* **18 U.S.C. § 1951(b)(2) (1982)** (offense involves "the obtaining of property from another").

That the law does apply to everyone was firmly established in***United States v. Culbert,*** 435 U.S. 371, 374-78 (1978).

The Hobbs Act provides penalties of up to twenty years in prison and a $10,000 fine. *See* 18 U.S.C. § 1951(a) (1982).

United States v.Hathaway, 534 F. Cir. 1974) ("the obtaining of property from another, with his consent, induced ... under color of official right"),2d 386, 394 (1st Cir. 1976) ("inducement had to come from the official"); ***United States v. Staszcuk,***502 F.2d 875, 877(7th)

Bianchi v. United States,219F.2d 182, 193 (8th Cir.) (for the common law offenseof extortion, the public official's color of office takes the place of force, threats, andpressure normally required to prove extortion), *cert. denied,* 349 U.S. 915 (1955) ***United States v.Braasch,***505F.2d 139, 142 (7th Cir. 1974) *(shakedowns by police of local businesses), cert.denied,* 421 U.S. 910 (1975). And neither decision suggests that an act of inducement should not be required. The much quoted passage from the

Braasch opinion, which is read as saying that inducement should not be required, *see supra* notes 43-45 and accompanying text ,has been misconstrued. The passage does not say that inducement is unnecessary; it says instead that the way the official induces payments is irrelevant as long as the office is the motivation for the payments. And the further statement in ***Braasch***that conduct constituting extortion may violate**U.S.C..Title 18 1951**, also amount to bribery certainly does not mean that *all* conduct cognizable as bribery will also be extortion. That there is some overlap between extortion and bribery does not eliminate the distinction between the two crimes.

U.S.C. Title 18, 1962RICO ACT:

U.S.C. Title 18, § 1962, It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt in which such person has participated. Part (c), It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

Connecticut General Statute§ 53-395. Prohibited activities. (a) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise.

(b) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to receive anything of value or to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(c) It is unlawful for any person employed by, or associated with, any enterprise to knowingly conduct or participate in, directly or indirectly, such enterprise through a pattern of racketeering activity or through the collection of an unlawful debt.

U.S.C. Title 18 1341MAILFRAUD ACT:

U.S.C. Title 18,§1341, Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, for the purpose of executing such scheme or

attempting to do so, places in any post office or authorized depository for mail matter---shall be fined under this title or imprisoned not more than 20 years.

U.S.C. Title 18,§1341 Frauds and Swindles: Obtaining property by means of false or fraudulent pretense.

Specific Intent to Defraud "not only that a defendant must knowingly make a material misrepresentation or knowingly omit a material fact, but also that the misrepresentation or omission must have the purpose of inducing the victim to under take some action that he would not otherwise do.

Fraudulent representations as used in USCS Title 18, 1341 note 172 "may be affected by deceitful statements of half-truths or concealment of material facts" ***United States v. McCoy***(1980MD Fla.) 492 F Supp. 540,

OBSTRUCTION OF JUSTICE:

U.S.C.TITLE 18 §1509. Obstruction of court orders

Whoever, by threats or force, **willfully prevents, obstructs, impedes**, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under **any order**, judgment, or decree **of a court of the United States**, shall be fined under this title or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

U.S.C. TITLE 18 §1503: The Omnibus Provision: It condemns obstructing pending judicial proceedings. For conviction, the government must prove beyond a reasonable doubt: (1) that there was a **pending judicial proceeding**, (2) that the defendant knew this proceeding was pending, and (3) that the defendant then corruptly endeavored to influence, obstruct, or impede the due administration of justice.

U.S.C. TITLE 18 §2 PART I, CHAPTER 1: GENERAL PROVISIONS Section 2(b) is added to permit the deletion from many sections throughout the revision of such phrases as "causes or procures". The section as revised makes clear the legislative intent to punish as a principal not only one who directly commits an offense and one who "aids, abets,**counsels**, commands, induces or procures" another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States. It removes all doubt that one who puts in motion or assists in the illegal enterprise but causes the commission of an indispensable element of the offense by an innocent agent or

instrumentality, is guilty as a principal even though he intentionally refrained from the direct act constituting the completed offense.

U.S.C. TITLE 18 § 1621 Obstruction of Justice by Deception:
the older and more general prohibition that proscribes false swearing in federal official matters (**judicial**, legislative, or administrative);
Obstruction by Extortion Under Color of Official Right (18 U.S.C. 1951).
Extortion under color of official right occurs when a public official receives a payment to which he is not entitled, knowing it is being provided in exchange for the performance of an official act. Liability may be incurred by public officers and employees, those in the process of becoming public officers or employees, those who hold themselves out to be public officers or employees, their coconspirators, **or those who aid and abet public officers or employees in extortion under color or official right.** The payment need not have been solicited, nor need the official act for which it is exchanged have been committed. The prosecution must establish that the extortion obstructed, delayed, or affected interstate or foreign commerce, but the impact need not have actually occurred nor been even potentially severe. Violations are punishable by imprisonment for not more than 20 years.

Title 18 U.S.C. § 4 Misprision of felony. Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than $500 or imprisoned not more than three years, or both.

Title 18 U.S.C. § 3. Accessory after the fact. Whoever, knowing that an offense against the United States had been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

ACTS UNDER COLOR OF LAW:

U.S.C. TITLE 18 § 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

This statute makes it a crime for any person acting under color of law, statute or ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

Under federal law. 6th Amendment "The Constitution and laws of the United States, shall be the supreme laws of the land, and anything in the conditions or laws of any State to the contrary notwithstanding." This means of course that any federal law, even a regulation, trumps any conflicting state law.

Harlow v. Fitzgerald(1984) 457 US 800,73 L Ed. 2d, 139. In Harlow, the Court continued, "if the law was clearly established, then the immunity defense ordinarily should fail, in since a reasonably competent official should know the law governing the officials conduct". The Supreme Court in ***Malley v. Briggs*** (1986) 475 US 335, 89 L Ed. 2d. 271,106 S Ct. 1092 action for damages involving a 42 U.S.C.S. 1983 claim observed **"as qualified immunity defense has evolved it provides ample protection to all but the plainly incompetent or those who knowingly violate the law."** Government officials, as a class, cannot be totally exempt by virtue of some absolute immunity, from liability under terms of 42 U.S.C.S. 1983 since statute includes within its scope misuse of power possessed by. The Supreme Court has concluded that absolute immunity is "strong medicine" and should not apply to conduct of those who knowingly violate the law.

Government officials, as a class, cannot be totally exempt by virtue of some absolute immunity, from liability under terms of 42 U.S.C.S. 1983 since statue includes within its scope misuse of power possessed by. Conduct by persons acting under color of state law which is wrongful under 42 USCS 1983 cannot be immunized by state law, and construction of federal statue which permits immunity defense to have controlling effect would transmute basic guarantee into illusory promise, claims of immunity under 42 USCS 1983 must not be confused with defense of good faith. ***Hampton v. Chicago*** (1973 CA 111) 484 F2d 602, cert den (1974) 415 US 917, 39 L. Ed 2d 471, 94 S Ct. 1413, 94 S Ct. 1414. Government officials performing discretionary functions are generally granted qualified immunity and shielded from liability for civil damages, insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. ***Wilson v. Layne*** (1999) 526 US 603,143 L 2d 818, 119S Ct,.1692.

A plaintiff who seeks damages for a violation of constitutional rights may overcome a defendant's official qualified immunity only by showing these rights were clearly established at the time of the conduct at issue the Supreme Court held in a 42 U.S.C.S. 1983 case, ***Davis v. Scherer*** (1984) 468 US 183, 82 L Ed. 2d 139, 104 S Ct.

We recognize that in order to prove a single conspiracy it is not necessary to show that all the conspirators were involved in each transaction or that all the conspirators even knew each other. ***United States v. Lemm,*** 680 F.2d 1193 (8th Cir. 1982), *cert. denied,* 459 U.S. 1110 (1983). However, If two or more persons conspire *either* to commit any offense against the United States *or* to defraud the United States . . . each shall be fined under this title or imprisoned for not more than five years or both.

"The legislative intent to punish as a principal not only one who directly procures" another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States. Case law decisions: ***Rothenburg v. United States***, 1918, 38 S.Ct. 18, 245 U.S. 480, 62 L.Ed. 414, and ***United States v. Giles***, 1937, 57 S.Ct. 340, 300 U.S. 41, 81 L.Ed. 493.

Acts of others not involving the defendants directly may come in against him merely to show an existence of conspiracy, with which he is linked by quite separate proof. ***United States v. Costello*** 352 F.2d 848.

STATE LAWS

Connecticut General Statute § 6-38d No state marshal shall knowingly bill for, or receive fees for, work that such state marshal did not actually perform.

Connecticut General Statue§ 53a-119Larceny defined. A person commits larceny when, with intent to deprive another of property or to appropriate the same to himself or a third person he wrongfully takes, obtains or withholds such property from owner.

(3) Obtaining property by false promise. A person obtains property by false promise when, pursuant to a scheme to defraud, he obtains property of another by means of a representation, expressed or implied that he or a third person will in the future engage in a particular conduct.

(5) (h) use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing to perform an official duty, in such a manner as to effect some person adversely.

Connecticut General Statute§ 53a- 122: Larceny in the first degree: Class B felony. (a) A person is guilty of larceny in the first degree when he commits larceny as defined in section 53a-119, and: (1) The property or service, regardless of its nature and value, is obtained by extortion.

Connecticut General Statute §53a-139(a)(2) a public record or an instrument filed or required or authorized by law to be filed in or with a public office or public servant. Forgery in the second degree is a Class D Felony.

Connecticut General Statute §53a-157b, False statement in the second degree: Class A misdemeanor. (a) A person is guilty of false statement in the second degree when he intentionally makes a false written statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official duties.

Connecticut General Statute§ 53a-156 Perjury: Class D felony. (a) A person is guilty of perjury if, in any official proceeding, he intentionally, under oath, makes a false statement, swears, affirms, or testifies falsely, to a material statement which he does not believe to be true.

Connecticut General Statute § 1-84 (c) provides in pertinent part that "no public official ... shall use his public office...to obtain financial gain for himself.

Connecticut General Statute § 52-70. Endorsement on process for fees.Penalty for exacting illegal fees. Each officer serving any process shall endorse thereon the items of his fees, with the number of miles traveled by him. If any officer demands and receives on any civil process more than his legal fees, he shall pay threefold the amount of all the fees demanded to the defendant in the action in which the illegal fees were exacted, if such fees have been paid by the defendant, otherwise to the plaintiff in such action. The provisions of this section shall not apply to any case in which the fees claimed to be illegal have been taxed and allowed by the proper authority.

Connecticut General Statute § 52-325 - Notice of lispendens (c) Notwithstanding the provisions of subsection (a) of this section, in any action except a suit to foreclose a mortgage or other lien, no recorded notice of lispendens shall be valid or constitute constructive notice thereof unless the party recording such notice, not later than thirty days after such recording, serves a true and attested copy of the recorded notice of lispendens upon the owner of record of the property affected thereby. The notice shall be served upon the owner, if the owner resides in the same town in which the real property is located, by any proper officer or indifferent person, by leaving a true and attested copy of such recorded notice with the owner or at the owner's usual place of abode. If the property owner does not reside in such town, such copy may be served by any proper officer or indifferent person, by mailing such copy, by registered or certified mail, to the owner at the place where the owner resides. If such copy is returned unclaimed, notice to such property owner shall be given by publication in accordance with the provisions of section 1-2. If the property owner is a nonresident individual or foreign partnership, or the executor or administrator of the nonresident individual or foreign partnership, the notice may be served upon the Secretary of the State as provided in subsection (c) of section 52-59b and if the property owner is a foreign corporation, the notice may be served as provided in section 33-519 or 33-929. When there are two or more property owners of record, a true and attested copy of such recorded notice shall be so served on each property owner. A certified copy of the recorded notice of lispendens, with the return of the person who served it, endorsed thereon, shall be returned to the party who recorded the notice who shall file a copy of the return with the clerk of the court in which the action is brought. The clerk shall include the copy in the record.

Connecticut General Statute § 4-61dd(a) Any person having knowledge of any matter involving corruption, unethical practices, violation of state laws or regulations,

mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state department or agency or any quasi-public agency, as defined in section 1-120, or any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in such person's possession concerning such matter to the Auditors of Public Accounts. The Auditors of Public Accounts shall review such matter and report their findings and any recommendations to the Attorney General. Upon receiving such a report, the Attorney General shall make such investigation as the Attorney General deems proper regarding such report and any other information that may be reasonably derived from such report.

Connecticut General Statute § 42-110g. Action for damages.Class actions.Costs and fees.Equitable relief.Jury trial.(a) Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action in the judicial district in which the plaintiff or defendant resides or has his principal place of business or is doing business, to recover actual damages. Proof of public interest or public injury shall not be required in any action brought under this section. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

(b) Persons entitled to bring an action under subsection (a) of this section may, pursuant to rules established by the judges of the Superior Court, bring a class action on behalf of themselves and other persons similarly situated who are residents of this state or injured in this state to recover damages.

(c) Upon commencement of any action brought under subsection (a) of this section, the plaintiff shall mail a copy of the complaint to the Attorney General and the Commissioner of Consumer Protection and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General and the Commissioner of Consumer Protection.

(d) In any action brought by a person under this section, the court may award, to the plaintiff, in addition to the relief provided in this section, costs and reasonable attorneys' fees based on the work reasonably performed by an attorney and not on the amount of recovery. In a class action in which there is no monetary recovery, but other relief is granted on behalf of a class, the court may award, to the plaintiff, in addition to other relief provided in this section, costs and reasonable attorneys' fees. In any action brought under this section, the court may, in its discretion, order, in addition to damages or in lieu of damages, injunctive or other equitable relief.

(e) Any final order issued by the Department of Consumer Protection and any permanent injunction, final judgment or final order of the court made under section 42-110d, 42-110m, 42-110o or 42-110p shall be prima facie evidence in an action brought

under this section that the respondent or defendant used or employed a method, act or practice prohibited by section 42-110b, provided this section shall not apply to consent orders or judgments entered before any testimony has been taken.

(f) An action under this section may not be brought more than three years after the occurrence of a violation of this chapter.

(g) In any action brought by a person under this section there shall be a right to a jury trial except with respect to the award of punitive damages under subsection (a) of this section or the award of costs, reasonable attorneys' fees and injunctive or other equitable relief under subsection (d) of this section.

FEDERAL LAWS

U.S.C.Title 18§1951(b)(2) (1982). The Hobbs Act provides, in relevant part:(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, byrobbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined not more than $10,000or imprisoned not more than twenty years, or both.

U.S.C.Title 18§ 1951 Part I, Chapter 95

(a)Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery **or extortion** or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2)The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or **under color of official right.**

(3)The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c)This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101–115,151–166 of Title 29 or sections 151–188 of Title 45.

U.S.C. Title 18, § 1962, It shall be **unlawful** for any person who has **received any income derived,** directly or indirectly, from a pattern of racketeering activity **or through the collection of an unlawful debt in which such person has participated.** Part (c), It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, **to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.**

U.S.C. Title 18,§1341, Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises,---for the purpose of executing such scheme or attempting to do so, places in any post office or authorized depository for mail matter---shall be fined under this title or imprisoned not more than 20 years.

U.S.C. 42, §1983 Acts Under Color of Law

U.S.C.Title 18 §1509. Obstruction of court orders
Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

EXHIBIT 27.

CONNECTICUT GENERAL ASSEMBLY EXCERPTS FROM

HOUSE OF REPRESENTATIVES

April 18, 2000

REP. LAWLOR: (99TH)

The Judiciary Committee also considered the fact of whether existing deputy sheriffs should be allowed to continue on in the new office of state marshall and there was a good deal of discussion about whether or not we, as a Legislature, or we, as a committee should get involved in the business on an individualized basis to see which deputy sheriff merited this new status and which did not or should we, in effect, grandfather each and every one. And I think it's fair to characterize the end result as an acknowledgment that we, in part, as the policy makers of the State, the General Assembly, share some of the blame for allowing the system to continue on as long as it has. And for that reason, we ought not punish the people who currently out that function. Instead, we should allow them all to transition into a new office of state marshall, subject to the governance of a new commission, state marshall commission, and that if there was actual misconduct, if there were complaints, if there was non-feasant or malfeasants or mis-feasant by state marshalls, then the new commission could remove those marshalls based on standards it would adopt which would be, I assume, a lot like standards that govern other state employees and other state officials.

In other words, give all the current deputy sheriffs the benefit of the doubt, allow them to become new state marshalls, and if there is a problem with their performance in the future, they would be removed for cause just as any other state official or state employee can be.

Will you remark further? Representative Bernhard.

REP. BERNHARD: (136TH)

Thank you, Madam Speaker. You know, I listened to the distinguished chairman of the Judiciary Committee tell us earlier that the high sheriff system is gone, it's dead, it's finished and he was very clear about his opinion and optimism that sheriff reform is, in fact, going to take place here in the State of Connecticut. But what has just been brought to my attention by this amendment is that already the high sheriffs are maneuvering behind the scenes, are already frustrating the purpose that this Legislature has enacted this legislation in the first place.

And I have to agree with Representative Ward who, I think, was more accurate with respect to the time frame in which the high sheriffs will be given an opportunity to think of more clever ideas to frustrate the system.

I am somewhat appalled that we are allowing potential corruption, potential frustration of the will of this Legislature to take place. I know that we've endeavored to legislate out the possibilities of behind the scenes maneuvering by the sheriffs to frustrate the will of this Legislature. But quite frankly I am a student of reality and the reality is you can't legislate morality and you can't legislate out behind the scenes maneuvering that aren't obvious to a prosecutor or a police officer and I fear that we're not going to get the sheriffs' reform bill that we've worked so carefully and so long to bring to this Chamber.

I think Representative Farr's amendment here makes good sense. And I would encourage this Chamber to vote in favor of it.

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5TH)

Thank you, Madam Speaker. I rise for the purpose of, I guess, making a statement and asking a question of Representative Lawlor.

You will be creating a state marshall's commission and you will also be doing a sheriffs' advisory board. My concern is in the individuals that will serve on the board, the current constitution of those boards are not reflective of the gender and racial population of the State of Connecticut and I want to know what will be done, if anything, to ensure that that happens with the appointments that are available?

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SPEAKER LYONS:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Well, first of all, the sheriffs' advisory council will disappear on the effective date which is currently October 1st in this amendment. There would be an effort to change that later to December 1st, but that, as with every other aspect of the Office of High Sheriff, will

disappear on December 1st, assuming the Constitutional Amendment -- so that's going away, In other words, no matter how you look at it.

But the membership is ex-officio. In other words, people are on there not because someone picked them, but of the office they hold, Commissioner of Corrections, Chief Court Administrator, that type of thing.

The new appointments are one, I think, for the Department of Corrections, one for Judicial. So it would be up to the heads of those two departments to decide who would be the additional representative. So, in that respect, the concerns you raised could be accommodated, I hope.

For the new proposed system, the State Marshal Commission, those appointments will be made, as I outlined, Speaker, President of the Senate, Minority Leaders, Majority Leaders and I think, as has been the case in the recent past, there's been a lot of effort to try and ensure that there's appropriate balance on those commissions and boards, as well as with the new appointments and one of my concerns about the current system, if you compare the diversity of the deputies and the special deputies under the current system, to the diversity accomplishments of the Judicial branch or the corrections branch or other branches of state government involved in a similar business, there's much more diversity in the existing aspects of state government, Judicial and Corrections than there are in the sheriffs' offices statewide. So I think you get a better outcome by switching to the normal process.

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5TH)

Thank you. Madam Speaker, through you to Representative Lawlor. Being that the Judiciary and Corrections Departments have appointments for the Advisory Board and you have such great relationships with those two entities, I ask you now, will you commit to work with me to ensure that we have racial and gender balance on this commission and board?

REP. LAWLOR: (99TH)

Thank you, Madam Speaker. Through you, yes, I certainly will commit to that. That's one of my favorite topics and most important goals at the moment.

Thank you, Madam Speaker.

Representative Farr.

REP. FARR: (19TH)

Thank you, Madam Speaker. I think Representative Lawlor has done a good job of summarizing what the system is and what we're about to do today.

It's important for people to understand that the current sheriff system gives some extraordinary powers to people who may otherwise be unqualified to have those powers.

Some rough numbers. There are approximately 300 deputy sheriffs. I think there's 275 deputy sheriffs. These are the process servers. And there's approximately 300 special deputies. These are the ones that are in charge of courthouse security, lockups, and transportation. Under our statutes, they're all peace officers. Peace officers have some extraordinary powers. The power to make arrest, the power to use deadly force in situations where an ordinary citizen does not have that power.

If you want to be a deputy sheriff or a special deputy sheriff in the State of Connecticut, you don't answer a newspaper ad. You don't go for the test. In the background exam, quite frankly, the

background check that's done on you is somebody checks with your town committee and the issue really is do you want to have peace officers in the State of Connecticut hired by your town committee? I mean, when you think about that, would you turn the hiring and firing of your police department over to your town committee and I'm not trying to slander town committees because we all love our town committees dearly. But frankly, that's not the way in which the selection should be made.

This is a system that should have been changed a long time ago. Representative Lawlor is correct, the system - the functions they perform are functions that ought to be, to a large extent, done by civil servants, civil servants who are hired on merits, who are fired on merits and who are promoted on merit.

We can - the issue today is whether or not we want to change the system. This is a constitutional amendment. Some people have said well, the issue is whether we want to put it to the people and let them decide. It really is not a question just of whether we want to put it to the people because ultimately they will have that decision, but it's up to this body to decide whether or not we want to change the system.

There have been a whole lot of proposals to change the Constitution. Proposals, for example, for direct referendums. Proposals to change the term of office for Senators from two to four years. I put in a proposal once to end the Treasurer's position as an elected official and make him an appointed official.

We never put any of those proposals to the people because this body, in its wisdom, decided that there wasn't enough support in the body to approve it as a constitutional amendment.

I believe there are some eighteen amendments that we now have to our current Connecticut Constitution. They all became amendments to the Constitution through a process which required us to

use our judgment to decide that this was a worthwhile amendment to make to the Constitution and then for the people to concur.

Today I urge this body to make that decision, to support a constitutional amendment because we feel it's time, it's long past time to change the system and I would therefore urge passage of the resolution.

Thank you.

SPEAKER LYONS:

Representative Newton.

REP. NEWTON: (124TH)

Yes, just one final question. What's going to happen if the same kind of situations that have happened in the past with the high sheriffs where people transport prisoners - I mean, by changing this it doesn't eliminate the kind of situations and the kind of problems that we've had in the high sheriffs problem with people being raped, embezzlement, all kinds of things. What's to stop this from happening in the future just by placing them in different departments? We don't know if this is going to stop the kind of things that have been happening, whether we change the title, whether we change their names, there's still the situation that could arise and we'll never be able to take politics, if that's what you want to call it, out of state government. Somebody will be appointing these new marshalls, whether it's this commission or advisory board. Somebody will be appointing them and how do we have any assurance that politics will not play some sort of role, through you, Madam Speaker, so that we don't have the same situation, whether it's the high sheriff or this commission appointing them?

REP. CARTER: (7TH)

Someone mentioned while I was sitting down there that people in the Sheriff system were working behind the scenes in order to do something to people that are in the system.

I don't know anyone in the system, whether we're talking about people who are in the department or whether we're talking about people who are in the executive branch or wherever they are where people are working behind the scenes doing things to other people.

Now I believe I would have strapped everybody in this room down in a chair, crazy glue that finger to the yes button, they would not vote to get rid of the patronage system in the executive branch.

Let me tell you. Instead of us doing something with the sheriff system that cleans up the sheriff system like getting some supervision in there, we don't want to do that. We want to shift it over to some place else and still don't take care of what you say the problem is.

If some sheriff in there has raped some woman, prosecute his behind. If there is somebody in there breaking the law, prosecute him. We do everything but the right thing and now we want to get rid of the sheriff's system because we are angry with some people. Well, let me tell you about the sheriffs in my county. The sheriffs in my county gives a ball. Most of his money goes to some of the non-profits, the children in my county. I don't know about yours. But we don't take care - we pass more laws up here that don't take care of the problem.

Now let's see next year if we're going to come back here and get rid of that patronage system in the Governor's office that gave people $15,000 and $20,000 raises and can't nobody say where we got the numbers from, but they got them and they got them under the patronage system. We don't deal fair up here, ladies and gentlemen. And sometimes I just guess that somebody has to be the conscience and in order to tell you up here.

Now I know you're going to vote this bill through and that's okay. But this afternoon when I was voting no, I had choked on enough stuff up here this year. And I don't plan to choke on anything else up here this year. We need to do what's fair up here. We need to vote our conscience. People didn't vote for us to come up here and do this crazy crap we do up here and let me tell you, while you're talking about the democrats or listening to the democrats on the democratic side, the republicans are listening to the republicans on the republican side. And you ain't going to get the Governor and most of the people up here ain't going against the Governor.

Those are just facts, ladies and gentlemen. And we might as well face them. What we do up here is unfair to most of the State. And what we are doing to our departments is totally unfair. They need to get some supervision there. You need to have those people supervised.

Let me tell you, I don't know nobody here that can make $250,000 - $300,000 and won't make it because you would and if you think I'm lying, look at the hourly wage we give to our Chief of the State Police Department. We will pay for whatever we think we ought to pay and people in this Chamber will make as much money as they can make and don't let me talk about how much they steal.

Let me tell you, we need to get it together and stop making this big show of we're doing something when we're not. If we want to do something about that system, put some supervision in there.

Representative Jarjura.

REP. JARJURA: (74TH)

Thank you, Madam Speaker. Just a few comments because this amendment is, obviously I think, the main thrust, if you will, of the ultimate bill. And from the outset, I would like to publicly thank the staff of the Program Review and Investigations Committee and the House co-chairman, Julia Wasserman

for the fine work that they did and also working with Judiciary, but for the fine work that they did. As a matter of public record, I ultimately ended up not voting for the recommendations and findings because my feelings are well known on this matter that I'm still left with the big question about what exactly we're doing, Madam Speaker.

In the testimony and I sat through quite a bit of this testimony in two committees, Program Review and Investigations and Judiciary which I have the honor of serving on. The testimony I received, which is a matter of public record, we asked Judge Ronan and Judge Leuba how were their services in terms of transportation of prisoners by the current system. And the answer we received was "it was good, we're very happy with that." And we asked them about the courtroom security and the people that passed through the metal detectors and the ones that are in the courthouses with the judge and they felt that that was very good and adequate and were there some instances being that this is the first contact with the judicial system were there some instances that there were problems? Sure there were. But are we ever going to have a perfect system? If that's true, then we might as well eliminate DCF. We might as well eliminate the Commission on Human Rights and Opportunities. We might as well eliminate the Department of Corrections because we've talked about those this year and in years past and they've had much more serious dilemmas that they have been allowed to correct and work out.

And one important factor that I think we talked about in the Program Review and Investigation Committee and I think we felt very strongly about and I don't see reflected here was this issue of numeric limits. As we all know, there is a certain numeric limit in each county of what is now deputy sheriffs. Under the new proposal they're going to be called State Marshals. And it was a feeling of the chairs and the committee that if we were really going to be honest with the people of the State of Connecticut and say the bill we're going to pass is going to reflect true reform, we're going to really weed out any problems and we've had some reports of some problems, then we would allow for some

mechanism for this judicial advisory group or the Governor's office or the Legislature to add additional people. And there was another factor with regard to that, Madam Speaker and Representative Dillon can attest to this. The current makeup of the deputy sheriffs - these are the process servers, if you will, showed an inordinate number of male, white male individuals in those positions. And Representative Dillon and others asked, well how are going to get additional minorities or women in these roles if under the bill, as I understand, we're grandfathering all current special deputies and I should tell you that many of these people are my friends. I find them, as a lawyer, I find that they work that they do is to be excellent work, in terms of getting the process served appropriately.

So we're going to grandfather these current numerics and we're not going to allow any raising of the limits at all and I should, as a backup point, let the ladies and gentlemen of the Chamber know what they know already. These people all got their jobs because of politics, because of a democrat or a republican being the county high sheriff and them having, probably even prior or while they had their sheriff position, supporting that individual. And now all of a sudden we're going to elevate them to this protected status and we're going to call this reform.

These are just things that were disturbing to me as this process continued. I haven't really had a clear cut answer. The more I listen to this, the more I think that what we're calling reform is basically taking eight gentlemen or ladies or eight county sheriffs, high sheriffs, juggling them somewhere, maybe to wherever, out of business, and all the special deputies are being grandfathered and taken care of. To use somebody's term over there they said, "protected" and the special deputies are being protected and the deputies are being protected. And we're going to call this far reaching and historic reform.

I don't see it, Madam Speaker. I had problems then and I have problems now with some of these provisions and I'm sure I'll have some additional comments as we proceed with other amendments to this matter.

Thank you very much.